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Occupy Victimology: the relevance of David Graeber to the study of victims of crime

Antony Pemberton, August 2012

Introduction

It is a great honour to be allowed to contribute this essay to the *liber amoricum* for Jan van Dijk, as he is a true hero, and example of mine. Jan is one of those rare people capable of excelling in more than one capacity and both his academic and his professional legacy in the fields of victimology and crime prevention will be felt for many years to come. I have spent most my working life in organizations Jan founded or co-founded, working on topics that are always traceable to him and hope throughout my career to be able to display the same level of enduring intellectual curiosity that is one of Jan's trademark qualities. Even after a lifetime of achievement, Jan has never steered clear of new challenge, insight or approach, foregoing the trap of merely repeating past successes for the more uncertain but equally rewarding endeavour of mapping out victimological and criminological terra incognita.

The topic of this essay takes its approach from Jan's recent work on victim labelling (Van Dijk, 2006, 2008, 2009) and in particular his use of etymology and ethnography to illuminate key issues in victimology, while simultaneously drawing on a theoretical framework - in his case Rene Girard (1986)'s scapegoating theory - that is uncommon in our field. I utilize this approach as a means to further insight into some of our shared interests: the role of revenge, retribution and compensation in the aftermath of crime and the shortcomings of restorative justice approaches to these issues.

To this end I marshal the work of economic anthropologist David Graeber's recent (2011) must-read *Debt: the first 5000 years*, which has both direct and indirect bearing on these topics. Graeber is associated with the Occupy-movement - hence the somewhat flippant title of this essay - and his work amounts to a scathing critique of modern-day economics. However, unlike Occupy's vagueness and opacity, Graeber is compellingly lucid about the sources and avenues for solutions to the financial conundrum facing our societies. I will briefly sketch some of Graeber's main insights and proceed to connect this to relevant victimological issues.

The myth of barter and the function of money

Graeber's first bone of contention with the economic discipline is the *myth of barter*. Invariably economic textbooks state that a key element of historical societies is barter: i.e. the simultaneous exchange of goods for goods. In an imaginary village in our distant past, Henry has potatoes in surplus, while his neighbour Joshua has shoes. If Joshua needs potatoes at the same time Henry needs shoes the pair can exchange potatoes for shoes.¹ As these exchanges inevitably fall foul of the necessity of double coincidence of wants -that Henry's need for shoes must coincide with Jim's need for potatoes- for trade to be possible, *money* emerges as a means to overcome this problem. Henry can pay Jim for his shoes, who at a later date can pay Henry for his potatoes. As Mitchell-Innes (1913) summarized:

"The fundamental theories on which the modern science of political economy is based are these: That under primitive conditions men lived and live by barter; That as life becomes more complex barter no longer suffices as a method of exchanging commodities, and by common consent one particular commodity is fixed on which is generally acceptable and

¹ This is the example drawn from Stiglitz and Driffil's Economics (2000). Graeber (2011:20-23) provides a succession of other examples, and in doing so successfully lampoons economic textbooks for their silliness.

*which therefore, everyone will take in exchange for the things he produces or the services he renders and which each in turn can equally pass on to others in exchange for whatever he may want; That this commodity thus becomes a "medium of exchange and measure of value."; That a sale is the exchange of a commodity for this intermediate commodity which is called" money;" ""*²

As Graeber stresses, from Adam Smith (1776)'s *The Wealth of Nations* onwards, this type of mock historical account is a key - even crucial perhaps - element of economic theory (Graeber, 2011:24). It underlies the view that money, property and markets emerge naturally, pre-existing the political institutions of state and government. This, in turn, gives rise to the view that government should steer clear of meddling with these 'natural economies'. It should at most busy itself with aiding the invisible hand of the market's smooth functioning.

The only problem is that, as a matter of historical fact, tales of this stripe are false. The evidence has been succinctly summarized as follows (Humphrey, 1985): *No example of a barter economy, pure and simple, has ever been described, let alone the emergence from it of money; all available ethnography suggests there has never been such a thing.*³ In the small 'primitive' communities in which Joshua and Henry reside goods are not bartered for other goods.⁴ Instead the following scenario is observed (Graeber, 2011:35):

Henry walks up to Joshua and says 'Nice shoes!'. Joshua says: "" Oh they're not much, but since you like them, by all means take them.' Henry takes the shoes. Henry's potatoes are not at issue, since both parties are perfectly well aware that if Joshua were ever short of potatoes, Henry would give him some'.

Any instances of trade through barter were not found *within* communities, between people who had ongoing relationships with each other. They were solely observed *between* communities, who, were likely to never meet again and after the trade both went their separate ways. The point is that within communities the problem of double coincidence of wants disappears: Joshua may not need potatoes now, but is surely likely to want some in the future,⁵ while Henry, after Joshua's gift of the shoes 'owes him one'. Henry will repay Joshua, by at some time in the future by proffering him a good or service, of roughly, but importantly *not exactly* the same value.⁶ Once 'life becomes more complex', systems of IOU's appear within communities, which in cases, like the Mesopotamian civilization could morph into vast credit-systems. The so-called reversion to barter, which is sometimes visible after systems of money falter, is what happens when people are already used to money and then (suddenly) have to do without. In fact this is largely akin to the exercise undertaken by the authors of economic textbooks, when they instruct the reader to think of barter-based villages. This does not tax our imagination any further than to emphasize the difficulties we would have today, if we did not have money.

Instead of a self-emerging tool to make barter possible within communities, money is created, once states become so sizeable –or grow so rapidly, for instance during times of conquest and war- that many inhabitants are strangers to each other. Exchange then routinely involves

² Although this quote is nearly 100 years old, it could have been written today applies as neo-classical economics essentially views economies as extensive barter-systems, over which a so-called veil of money is draped (e.g. Minsky, 2008; Skidelsky, 2010).

³ This was already recognized in the years following the appearance of the *Wealth of Nations*. Indeed in the edition of Smith's book by William Playfair from 1805, the errors in the examples given by Smith were already exposed (see Mitchell-Innes, 1913). It should be emphasized though, as Karl Polanyi (2001) noted in his classic *The Great Transformation*, that *no misreading of the past ever proved so prophetic of the future*.

⁴ This is also the reason economic textbooks have to use imaginary examples: real ones do not exist (Graeber, 2011:35).

⁵ Until today, for all its mathematical sophistication, neo-classical economic modelling is still mostly inept at dealing with the issue of time (Sraffa, 1926; Keen, 2011).

⁶ Anthropologists employ the concept of spheres of exchange to denote this rough equivalence.

parties who have no further relationship with each other. Both sides of the coin are important: the ‘heads’ which symbolize the political authority that minted the coin; while the ‘tails’ show its exact value (Hart, 1986).⁷ Money then is a state-created, underwritten and enforced measure of debt, which crucially differs from informal credit systems in two ways. First it replaces the necessary element of *trust in a fellow community member* that the IOU will be repaid, by *trust in the capability of government* to ensure payment of debt, if necessary by force. Second: the IOU’s within the small-scale communities of the past related to exchange of things of *roughly the same* value. The rough equivalence meant that debts between fellow villagers never exactly cancelled out, and in fact this debt-remainder is a key component of the maintenance of ongoing relationships. Money, however, exactly quantifies the debt owed. After payment no further obligation from either side remains, which negates the necessity of maintaining a relationship.

Debt and crime

Debt, retributive justice and revenge

I will return to other evidence Graeber presents throughout his treatise below. Here I would like to focus on the centrality of debt to money. Graeber (2011:121) points out the etymological connection between debt and the words for fault, sin and guilt in many European languages. The Dutch language, for instance, employs the same term *schuld* for fault, guilt and debt. The relationship between criminal wrongdoing and debt in the English language, is best seen in the fact that criminal punishment amounts to a wrongdoer ‘paying his debt to society’.

Both the similarities and differences between money and retributive criminal justice are revealing. As ‘creatures of the state’ the state’s monopoly on violence undergirds both institutions, and the coming of age of the state over the course of the past centuries has played a large role in them becoming common currency –excuse the pun – and indeed the dominant institutions of our current time. Beyond this shared development, it is of note that both measure debt in a precise manner and are intimately connected to exchange and contact between strangers. Even a cursory examination of most criminal codes and sentencing guidelines reveals the first point. The precision of the quantity of punishment contained in these documents for the wrongness of a given crime is in fact often used as an argument against retributive justice, for how can one exactly quantify the wrongfulness of crime?⁸ The equivalence with money in this respect, however, shows that this is hardly a unique fault of retributive justice. Inevitably the quantification of any debt involves an exercise of a similar nature.

The precise measurement of the ‘debt’ incurred by the commission of crime means that upon full retribution of the debt no further relationship between ‘debtor’ and ‘creditor’ need remain. The precision of the measurement of punishment for a given crime dissolves the relationship between criminal, victim and society at large after the former’s debt is paid. This is the mirror image of one of the key conditions under which formal systems of criminal justice emerge: the jurisdiction in question contains a sufficiently large proportion of inhabitants who are

⁷ Graeber (2011:54) quotes Keynes (1930) who summarized this as follows: “The state, therefore, comes in first of all as the authority which enforces payment of the thing which corresponds to the name of the description in the contract. But it comes in doubly when, in addition when it claims the right to determine and declare what thing corresponds to the name.... This right is claimed by all modern states and has been done so for some four thousand years at least.”

⁸ See Dolinko, 1991, Tonry, 2005. For a rebuttal, see Robinson and Darley, 2007.

strangers to each other.⁹ In many cases the only relationship existing between victim and criminal is the one due to the crime, one which therefore is thrust upon the victim and wholly unwanted.¹⁰

The connection between the nature of money and retributive justice also illuminates a key difference between revenge and retribution, which to my knowledge has not been the topic of discussion on the literature.¹¹ Where retribution involves a clear and precise quantification of the punishment that is in order for a given crime, and thereby can function as a full stop behind any relationship between wrongdoer and victim, revenge at most sets out a sphere of appropriate reaction, which falls short of exact quantification (Elster,1990).¹² This implies that following revenge the relationship between victim and wrongdoer remains, although the overreach in revenge may reverse the positions of wrongdoer and victim.¹³ In an intriguing variant on Graeber's notion of the role debt plays in relationships, cycles of revenge may occur exactly because there is never a cancelling of debts. One overreaction follows another, maintaining the link between the feuding factions.¹⁴

Debt, compensation and retribution

In time attempts to formalize and quantify debts in both monetary and moral terms co-occur. In some cases the use of money, initially, is primarily connected to the payment of fines for wrongdoing. Graeber (2011: 171-176) discusses the Medieval Irish Laws which, viewed from our perspective, have an almost obsessive and discomfoting tendency to place material value on all types of human dignity. The sanctity of a priest on the one hand was equivalent to a million fried eggs on the other (Graeber's example, not mine!).¹⁵ However at that time the Irish economy was still in its pre-money phase, what Graeber calls a 'human economy'. Systems of IOU's existed within communities and barter between strangers. People did not place exact value on goods for the purpose of exchange. This type of quantification of value was reserved for justice purposes.

The Irish example signals that the issue of the taboo trade-off (Fiske and Tetlock, 1997) - the profound unease we experience when attempting to translate key immaterial values into material quantities, including money - acquires it's sting when the latter is also used as a means to trade, rather than through the quantification exercise per se. It is precisely because trade has pervaded all areas of our material lives that the experience appears categorical. The

⁹ See Johnson et al,2008. Until today the root of criminal justice as a means to regulate the cohabitation of strangers is still visible in its connection to public wrongs (Duff,2003) and its reduced suitability to deal with crime committed in the private sphere of life (Smart,1989, Colb,2001). Preceding this informal means of justice exist within communities of equals and power rather than justice will structure inter-communal relationships and hierarchical relations, although elaborate system of norms and rituals may be found in both inter and intra-communal dealings (Elster, 1990; Shoemaker, 2005).

¹⁰ This is a relationship in a real empirical sense, rather than a symbolic notion of relationships between people by virtue of common citizenship or even humanity (e.g. Bennett,2007).

¹¹ Much of the discussion in past decades has centered around Nozick's (1981) five-points of distinction, which has been criticized on both philosophical (e.g. Elster,1990, Zaibert, 2006 and psychological grounds (Gollwitzer, 2009).

¹² This even applies to the sometimes elaborate system of revenge norms described by Elster (1990). This does convincingly show that the oft-cited distinction *private* revenge versus *public* retribution (see also Nozick, 1981) is not categorical: in many historical accounts public revenge norms are found.

¹³ This places a new spin on the view that revenge is hot and retribution is cold. A variety of authors have noted that revenge is often anything but hot: it is indeed a 'dish best served cold' (Elster,1990;Miller, 2006). However retribution has a coolness, which revenge lacks: rendering the relationship between victim and offender null and void. It may then be that the coolness of retribution rather than the heat of revenge defines this dichotomy..

¹⁴ For this reason I wonder whether it is correct to view the *Lex talionis* 'A life for a life, an eye for an eye and a tooth for a tooth' as a *law* of revenge (see Elster, 1990, Miller, 2006). A law, unlike a system of norms, involves the type of exact quantification and measurement that in my view would be a defining trait of retribution. As a consequence a *law* of revenge is something of a contradiction in terms: revenge, if anything belies exact quantification and measurement. Instead the Talion maybe better understood as an -albeit rudimentary- law of retribution, and it formed the launching pad for mathematical calculations of the right amount of payback for wrongdoing.

¹⁵ Even others living in these times would have frowned at this, a Viking proverb from the time would chastise them for carrying their kin in their purse (Miller,2006).

use of the means employed in trade to cancel out debt implies that the latter is impersonal and transmutable. Where money is used to achieve this end, it does not matter who's money is used to cancel a debt. If my friend owes someone some money, I can pay off the debt myself. The near-collapse of the world's financial system was facilitated by an almost endless string of debts, which had been passed on, repackaged and leveraged (Keen, 2011).

The debts incurred by wrongdoing are of a conspicuously different nature (Duff, 2003). The debt is due by the wrongdoer him or herself, and is not transferable to others. This lack of transferability also concerns the act that caused the debt. The act causing the money-debt is in many ways irrelevant to it – it does not matter if it was incurred as a result of a gambling spree or to cover the costs of a life-saving medical procedure –, while the debt caused by wrongs remains intimately connected to its cause. In turn, appropriate repayment, or in other words retribution, of the debt caused by wrongdoing requires a means that is not subject to trade.¹⁶

As John Gray (2000:44) concluded in more general terms: '*A world in which everything can be traded is by necessity a world in which some goods cannot be had*'. It is apparent from the reading of the anthropological evidence that commensurate retribution for wrongdoing is one of these 'some goods'. For where the debt done *by* wrongdoing could be traded, its payment would cease to function as retribution *for* wrongdoing.

Confusions of restorative justice

The confusion of different types of debt is particularly evident in branches of restorative justice theory. A whole host of theorists from Christie to Fattah to Braithwaite to Hulsman to Zehr display a remarkable ability to neglect to appreciate the distinctions between the debt arising from conflict and harm and that arising from crime and wrongdoing. This hampers their contribution to realistic implementation strategies for processes of restorative justice.

In addition the anthropological evidence reported by Graeber casts great doubt over the mythology of restorative justice. It is common for restorative justice advocates to opine that in the past people used restorative options, and that it was only due to state involvement that retributive punishment became an element of the response to wrongdoing.¹⁷ This view of history is then put to the same rhetorical use as the myth of barter in economics. State involvement is framed as an alien, unnatural and thereby negative influence on the original state of affairs. This should be rolled back, so that the natural, benign situation can return.¹⁸

From the outset this *myth of restorative justice* only had any plausibility in intra-communal situations; there is no question that the reaction to wrongdoing by out-group members has a markedly less 'constructive' character. The evidence amassed in Pinker (2011) shows that warfare was an almost permanent feature of pre-state communities and the proportion of deaths due to war is in the order of even the most grizzly figures of the past century. Drawing evidence from small communities with strong relationship ties, to modern society then misses the qualitative impact of the existence of community and relationships on the preferred mode of dealing with wrongdoing (e.g. Wenzel et al, 2008; Darley, 2009). The regression to the

¹⁶ The distinction between the spheres of retributive and compensatory justice is also supported by a host of social-psychological evidence (Darley and Pittman, 2003). I should however add that I am not mounting an argument here that monetary compensation has no role to play in the reaction to wrongdoing and indeed crime, particularly considering the fact that the distinction between crime and other forms of debt is a matter of degree. See for instance Garland (2001)'s distinction between the criminologies of everyday life and the criminology of the other.

¹⁷ For criticism of the ordering of the myth of RJ, see for example Miller, 2006. I should also stress the distinction between retribution and punishment here: the former may be

¹⁸ This is particularly ironic in the light of the large mass of evidence showing that communities actually become far more peaceful when they come under governmental control (Keeley, 1996; Gat, 2006; Pinker, 2011). Rereading texts such as Christie (1977)'s *Conflict as Property* with this fact in mind, is a highly illuminating and therefore recommended experience.

justice-systems of small-scale societies like the Maori, or the Inuit, or any other pet ‘natural’ group of people preferred by the author in question, can only succeed by assuming away two of the elements that necessitated the creation of criminal justice systems in the first place: the explosion of the extent of *contact between strangers*, without the existence of *relationship* bonds. The undergirding sense of loyalty to one’s fellows traced the border of one’s tribe: beyond that the logic of warfare rather than justice prevailed (e.g. Keeley, 1996).

Even within communities however, I find the myth of restorative justice to be a poor reflection of available evidence. I would not be the first to note that revenge, vendetta’s and blood feuds are widespread throughout pre-modern communities (Chagnon, 1988, Elster, 1990, Erickson and Horton, 1992, Miller, 2006), to the extent that the homicide rate in pre-modern communities is a multiple of government-controlled jurisdictions (for an overview: Pinker, 2011).

In addition the interpretation of compensatory reactions as amounting to *restorative* justice should be more closely scrutinized and probably discarded. Graeber discusses Evans-Pritchard (1940)’s classic examination of the Nuer, Nilotic pastoralists of South Sudan. After a murder, the chief would immediately attempt to negotiate a settlement between the family of the murderer and the victim, which would often result in the latter accepting cattle from the former: victim-offender mediation *avant le lettre*. However as Graeber notes ‘*even once the matter is technically settled, it really hasn’t – it usually takes years to assemble the cattle, and even once they have been paid, the two sides will avoid each other, “especially at dances, for in the excitement they engender, merely bumping into a man whose kinsman has been slain may cause a fight to break out, because the offence is never forgiven and the score must be finally paid with a life. (Evans-Pritchard, 1940)”*’ The compensation therefore does not restore justice – this would at least be a view alien to the Nuer themselves - but is better seen as an attempt to put the matter on hold for as long as possible. Instead of the compensation being deemed sufficient payment for the debt occurred as a consequence of wrongdoing, it is acknowledgement of the fact that this type of debt could *never* be repaid.

Conclusion

At the time of writing in 2012, in the middle of the so-called Great Recession, debt is in many ways the most important social construct of our time. In this essay I hope to have shown that David Graeber’s work on this subject not only leads to a clearer understanding of the foundation of our economies, but is relevant to the study of (victimisation by) crime and wrongdoing as well. The etymological connection between debt and concepts such as fault, guilt and sin deserves further study, more than the relative brevity of this essay allows. I find there is value in viewing criminal wrongdoing and its antithesis retributive punishment through the lens of debt and money, as both the similarities and differences are fertile ground for further examination.

Reading *Debt: the first 5000 years* has sharpened my understanding of the reaction to wrongdoing in different ways. Both money and retributive punishment grapple with the issue of placing exact numerical value upon matters for which quantification is a thorny issue. Importantly this exact quantification is connected to the function that both money and retributive punishment perform vis-a-vis debt. Without this precision the resulting debt-remainder between debtor and creditor - or offender and victim – will maintain a relationship between the parties. Herein lies an important distinction between revenge and retribution: a cycle of revenge implies the existence of a relationship –albeit a negative, destructive one- between the feuding parties.

The debt incurred by wrongdoing is of a peculiar kind. Neglecting the specifics of this sphere of justice leads to taboo trade-offs. The anthropological-historical evidence gives us a clearer understanding of what is the key to this phenomenon. It is not necessarily quantification that is problematic, but rather that the means used for the repayment of the debt of wrongdoing is not subject to trade.

Restorative justice theory regularly fails to fully understand the implications of this distinction. In addition the myth of restorative justice – the idea of natural, peaceful societies in our past where wrongdoing is met with restorative reactions – and its transplant to our current day and age, is at odds with what can truly be gleaned from the anthropological evidence about these societies. The fact that life in these societies was a good deal more violent than in our day and age has been well established elsewhere. Beyond that, the view that the reaction to wrongdoing amounted to restoration is in dire need of critical scrutiny. The reality of the use of compensation as an answer to homicide was not that it allowed the 'stakeholders' to 'heal', 'restore' or 'live happily ever after', but that it was an attempt to postpone the, often inevitable, murderous retaliation.

Debating similar, often unfortunate, realities of the conundrum of crime and victimisation has been a staple of the discussions I have been allowed to have with Jan van Dijk. Key is a shared understanding that attempting to do justice in the aftermath of crime is a complicated, messy and often unsatisfactory affair, for which no easy answers exist. Indeed H.L. Mencken's classic aphorism - that for every complex and subtle problem there is a well-known solution that is simple, neat and wrong – applies in particular to our field of inquiry. I hope that I may enjoy having these discussions for many years to come.

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